

REMARKS/ARGUMENTS

Claims 1-6 and 9-22 are active. Claims 7 and 8 have been cancelled. Support for the revised method of prevention/treatment claims is found in the original claims. Support for solvates of the compound of general formula I as described by Claims 3 and 22 is found in the specification on page 5, lines 7-10. New Claims 13-18 find support in the specification at page 1, lines 19-21. Claims 19 and 20 find support on page 1, line 15, of the disclosure. Claims 21 and 22 find support in the specification on page 4, line 30 – page 5, line 10. Accordingly, the Applicants do not believe that any new matter has been added.

RESTRICTION/ELECTION

Group II and the compound described by claim 6 part (3) were elected. Group II is directed to compositions comprising nonprostanoid prostaglandin I₂ agonists having the functional ability to prevent or treat skin ulcers or bedsores. The Applicants presume that the elected claims have been searched and examined with respect to all the recited limitations, including both the functional activity of the elected compound to prevent or treat skin ulcers, as well as with respect to the structural characteristics of the recited compound. To facilitate the identification of allowable subject matter, the claims have now been revised and are presented as method of treatment claims.

The Applicants note that the restriction requirement has been made FINAL and appreciate the opportunity now afforded to petition this requirement. Applicants note that 37 C.F.R. 1.144 indicates that such a petition may be deferred until after final action or allowance of claims to the elected invention. The Applicants have preserved their right to petition by previously traversing the restriction requirement and now again request

reconsideration of this requirement, in view of their prior traverse, especially as it pertains to the restriction of methods involving the previously elected species.

Accordingly, in the interests of facilitating the identification of allowable subject matter and reducing examination burdens on both the Office and Applicant, the Applicants respectfully request that the Examiner reconsider the restriction/election of species requirement. With respect to the method of treatment claims involving the previously elected species, it is submitted that little or no additional burden would be imposed on the Office. The functional activity of the elected compound was recited by the originally elected and examined claims and, thus, has already been searched and considered by the Examiner. Thus, the examination of method of treatment claims involving the same compound and reciting the same functional activity of treating skin ulcers would impose little or no additional burden. Accordingly, the Applicants respectfully request that the Examiner reconsider and withdraw the restriction requirement and consider the corresponding method of treatment claims directed to methods of preventing or treating skin ulcers.

Rejection—35 U.S.C. 102

Claims 1, 2, 4, 6, 10 and 12 were rejected under 35 U.S.C. 102(b) as being anticipated by Taniguchi et al., WO95/24393. This rejection is moot in view of the amendment of the claims as method of treatment claims. This rejection would not apply to method of treatment claims as Taniguichi; see page 1, lines 19-21 and page 2, lines 3-7, does not disclose treatment of skin ulcers or bedsores.

Double Patenting/Duplicate Claims


Claims 1, 4 and 6 were objected to under 37 C.F.R. 1.75 (c) as being substantial duplicates of Claims 2, 10 and 12. Claims 2, 10 and 12 are specifically directed to treatment or prevention of diabetic skin ulcers, whereas Claims 1, 4 and 6 are not, because they are more broadly directed to treatment of skin ulcers and bedsores. Accordingly, these claims are not substantial duplicates and this objection may now be withdrawn.

CONCLUSION

In view of the above amendments and remarks, the Applicants respectfully submit that this application is now in condition for allowance. Early notification to that effect is earnestly solicited.

Respectfully submitted,

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